

Appendix C—Kroger Exhibits

PX1—Expert Report of Jonathan Libbert, dated October 30, 2003.

Malease objects – failure to comply with FRCP 26 and 37.

PX2—Agreement between Kroger and H.E. Butt, dated April 12, 2002.

Malease objects – failure to comply with FRCP 26 and 37.

PX3—Declaration of Lawrence Kadish, dated April 7, 2004.

Malease objects – relevance.

PX4—Deposition of Lawrence Kadish, dated January 21, 2004.

Malease objects – relevance.

PX5-20—reserved if needed for rebuttal or impeachment